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 9 FALLBROOK UNION HIGH SCHOOL DISTRICT

10

11 **UNITED STATES DISTRICT COURT**  
 12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 MARY STRUBLE, As Conservator for CS, ) Civil No. 07cv2328-LAB(CAB)  
 14 PLAINTIFF, )  
 15 v. ) **MEMORANDUM OF POINTS AND**  
 16 FALLBROOK UNION HIGH SCHOOL ) **AUTHORITIES IN SUPPORT OF**  
 17 DISTRICT, a Local Educational Agency, ) **DEFENDANT FALLBROOK UNION**  
 18 DEFENDANT ) **HIGH SCHOOL DISTRICT'S EX PARTE**  
 19 ) **APPLICATION TO CONTINUE**  
 20 ) **MANDATORY SETTLEMENT**  
 21 ) **CONFERENCE**  
 22 ) **MSC: February 29, 2008**  
 23 ) **Time: 2:00 p.m.**  
 24 ) **Place: Room 1121, U.S. Courthouse**  
 25 ) **U.S. Magistrate Judge: Hon. Cathy Ann**  
 26 \_\_\_\_\_ Bencivengo

27 **I.**

28 **BACKGROUND**

29 On December 13, 2007, Plaintiff Mary Struble (“Plaintiff”) as Conservator for CS  
 30 (“Student”) filed a “Complaint/Appeal of Office of Administrative Hearings, Special Education  
 31 Division for Partial Reversal of Decision and Attorney Fees and Costs” (“Complaint”).

32 On January 8, 2008, FALLBROOK UNION HIGH SCHOOL DISTRICT (“District”) filed  
 33 its Answer and Counterclaims to Plaintiff’s Complaint.

34 On January 9, 2008, the Court issued a Notice of Early Neutral Evaluation conference  
 35 (“ENE”) on February 12, 2008, at 2:00 p.m.

1 On February 6, 2008, the District filed an ex parte application to continue the ENE.

2 On February 8, 2008, the Court issued an Order continuing the ENE to February 14, 2008,  
 3 at 9:00 a.m. and setting a Mandatory Settlement Conference for February 29, 2008, at 2:00 p.m.

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5 **II.**

6 **ARGUMENT**

7 1. The February 8, 2008 Order Regarding Ex Parte Application to Continue Early  
 8 Neutral Evaluation Conference (“Order”) states that pursuant to Local Civil Rule 16.3, all party  
 9 representatives and claims adjusters for insured defendants with full and unlimited authority to  
 10 negotiate and enter into a binding settlement, as well as the principal attorney(s) responsible for the  
 11 litigation must be present at the Mandatory Settlement Conference. The Order further states that  
 12 retained outside corporate counsel shall not appear on behalf of a corporation as the party who has  
 13 the authority to negotiate and enter into a settlement.

14 2. Defendant is a public school district. The District has solely authorized Sallie Hunt,  
 15 Special Education Director of Fallbrook Union High School District, as its representative for this  
 16 matter. Ms. Hunt is the only District representative authorized to negotiate and enter into binding  
 17 settlement agreements on the District’s behalf. Ms. Hunt is the only District representative familiar  
 18 with this case.

19 3. Ms. Hunt is unable to appear at the Mandatory Settlement Conference on February  
 20 29, 2008, as Ms. Hunt has a pre-paid, pre-planned trip that takes her out of state from February 27,  
 21 2008 through March 3, 2008. (See Declaration of Sallie Hunt.)

22 4. The District requests a continuance to allow its representative to participate in the  
 23 Mandatory Settlement Conference in person, as required by the Order.

24 5. The District’s attorney’s office attempted to contact Plaintiff’s attorney to obtain  
 25 mutually agreeable dates to offer the Court, but Plaintiff’s attorney did not respond. (See  
 26 Declaration of Cheryl Smith). The District’s representative and legal counsel are available for the  
 27 Mandatory Settlement Conference on March 19, 24 or 26, 2008.

III.

## CONCLUSION

For the reasons stated above, the District respectfully requests that its *ex parte* application to continue the Mandatory Settlement Conference be granted.

Dated: February 26, 2008

Respectfully submitted,

Filarsky & Watt LLP

Dear *Spa* *W*

By: Sharon A. Watt

Attorney for FALLBROOK UNION HIGH  
SCHOOL DISTRICT